

**NORTH LINCOLNSHIRE COUNCIL**

**PLANNING COMMITTEE**

**CHANGES TO THE PROCEDURE FOLLOWED AT PLANNING COMMITTEE  
MEETINGS**

**1. OBJECT AND BRIEF SUMMARY OF SUBJECT**

- 1.1 To consider the suggested amendments to Procedure Rule D1. 35 (f)
- 1.2 To recommend the incorporation of the annexed procedure for site visits into the constitution

**2. BACKGROUND INFORMATION**

- 2.1 The Local Government Act 2000 requires the council to adopt a constitution. The constitution contains procedure rules which apply to meetings of this committee. It is a living document which requires frequent amendment to keep up with changes to its procedures.
- 2.2 Although Procedure Rule D1.35 (f) relating to the rights of members of the public to speak at the committee has worked well on the whole, it is considered that further amendments could be made to clarify certain areas where difficulty has been experienced in the past.
- 2.3 The procedure governing site visits is at present governed by the Good Practice Guide. Following the threat of judicial review, and having regard to the procedure adopted by neighbouring authorities, it is felt that the procedure should be formalised and incorporated into the constitution.

**3. OPTIONS FOR CONSIDERATION**

- 3.1 Adopt the changes to procedure outlined in Appendices 1 and 2.
- 3.2 Adopt the changes outlined in Appendix 1 only.
- 3.3 Adopt the changes outlined in Appendix 2 only.

3.4 Decline to adopt either change.

#### 4. ANALYSIS OF OPTIONS

- 4.1 The proposed changes to Procedure Rule D1.35 f) are shown in bold type in Appendix 1 to this report. The changes are mainly to clarify areas where difficulty has been experienced in the past. The committee has extended its terms of reference since the rule was first drawn up and it is felt that, rather than having to list each new item on which the public may speak, the rule should be simplified to include all items for which the committee has delegated powers. The committee has other advisory powers relating to Strategic Development but the relevant process contains ample opportunity for public participation. The other changes are to increase the number of persons allowed to speak on major applications, to clarify speaking rights if any item is deferred more than once and to tighten up the procedure relating to handing out of documents.
- 4.2 The procedure governing site visits is at present contained in the Good Practice Guide. Since a site visit may be a material consideration in the determination of a planning application (recommendations by officers are sometimes over-turned after members have visited the site) it is felt that the procedure should be placed on a more formal basis.
- 4.3 At present, there is no requirement that members must attend the site visit before voting on the determination of the application. This leaves the determination of the application open to challenge: it can be argued that the members making the decision did not have regard to all material considerations before casting their vote. The Good Practice Guide states that a site visit should not be held unless the benefit is substantial since site visits are expensive and time-consuming and delay the determination of the application. The Guide goes on to say that site visits should be viewed as an exception to the usual process, which can only be justified by the importance or complexity of the application. It follows that if the sub-committee has decided that a site visit is essential to determine the application it is just as essential that members attend the site visit before voting on the application.
- 4.4 The council has recently received complaints about two separate meetings where members of the sub-committee who did not attend the site visit voted on the application. It has been threatened with judicial review on this very point.
- 4.5 Some of our neighbouring authorities insist that not only must members visit the site, they must also attend each meeting at which the application is discussed. This is not proposed because it would preclude substitute members from voting on applications the subject of a site visit if they did not attend the meeting at which the application was first considered.

- 5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**
  - 5.1 Financial - Adoption of the changes in procedure should reduce the risk of costs being incurred as a result of appeals or judicial review.
  - 5.2 There are no staffing, property or IT implications associated with this report.
- 6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17-CRIME & DISORDER, RISK)**
  - 6.1 Statutory - Changes to the constitution must be approved by the Council in accordance with the Local Government Act 2000.
  - 6.2 Environmental - Environmental considerations are of major importance when considering planning applications. The changes to procedure should ensure that all applications are dealt with strictly on their planning merits.
  - 6.3 Risk - Adoption of the changes in procedure should reduce the risk of judicial review.

## **7. OUTCOMES OF CONSULTATION**

N/A

## **8. RECOMMENDATIONS**

- 8.1 That the changes to procedure outlined in Appendices 1 & 2 are submitted to council for approval.

SERVICE DIRECTOR: LEGAL AND DEMOCRATIC

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### **Background Papers used in the preparation of this report**

The Council's Constitution  
The Good Practice Guide for members and officers dealing with planning and other applications.

## **Appendix 1: Council Procedure Rule D1. 35 (f)**

The following arrangements shall apply to meetings of the Planning Committee:

- (i) Any member of the public (other than persons wishing to represent town or parish or other public bodies) may address the committee on any agenda item **in respect of which the Planning Committee has delegated functions.**
- (ii) Any member of the public who wishes to speak must notify the Service Director: Legal and Democratic at least 48 hours prior to the start of the meeting at which the matter is to be determined, even if they have previously notified the Head of Planning that they wish to speak when consulted on the application.
- (iii) Members of the public wishing to speak shall identify themselves prior to the beginning of the meeting.
- (iv) No more than one member of the public shall be allowed to speak in support of, or objecting to, **any item on the agenda unless the application constitutes major development, as defined in the General Development Procedure Order 1995.** If more than one supporter or objector wishes to speak on the same item, the chair will request that a spokesperson be appointed to represent the views of the supporters or objectors, as the case may be. In the event that the proposed speakers do not agree on the appointment of a spokesperson the first person to have contacted the Service Director: Legal and Democratic will be offered the opportunity to speak.
- (v) If a member of the public speaks in support of or objecting to an agenda item the chair shall, in the interests of fairness, allow one member taking the contrary view a right of reply even if that member of the public has not given prior notice of their wish to speak.
- (vi) **If the application constitutes major development, up to five members of the public may speak in support of the application and up to five members of the public may speak objecting to the application.**
- (vii) No member of the public shall speak for longer than 3 minutes **unless the application constitutes major development. In such a case, if there are more members of the public wishing to object to the application than to support it, or vice versa, the chair may at his discretion adjust the period allowed for the exercise of the right of reply to ensure parity of debate.**
- (viii) No member of the public shall distribute any photograph or other document at **or prior to the commencement of** any meeting of the

**committee or leave any documents in the room where the meeting is to be held.**

- (ix) If consideration of the agenda item is deferred for any reason members of the public wishing to speak may do so **at any meeting when the item is considered.**
- (x) Nothing in this rule shall affect the right of any member of the council attending the meeting of the committee under the provisions of any other rule to speak if so invited. **However, any member of the council having a personal and prejudicial interest in the application but wishing to exercise their right to make representations under Clause 12 (2) of the Members Code of Conduct 2007 will be required to abide by the same rules as apply to members of the public.**

## **Appendix 2: Site visits**

1. Any member of the planning committee proposing a site visit must identify the benefit which will accrue from such a visit. The motion shall be seconded and voted upon in accordance with the council's procedure rules.
2. The committee should not resolve to hold a site visit unless the benefit is substantial. The reasons for holding a site visit will be recorded in the minutes of the meeting.
3. No member of the planning committee may vote to determine an application unless they have attended the relevant site visit.
4. The following principles will govern the conduct of site visits:
  - 4.1 The purpose of the site visit is for members of the committee to visit and inspect the site and its surroundings. Councillors representing wards in which site visits are to take place will be informed of the site visit and, subject to 4.3. below, will be permitted to attend those visits.
  - 4.2 Applicants and/or their agents will be informed of arrangements for site visits but, except where there is a need to arrange access to the site or for members to be escorted around it, they will not be invited to join members on the visit.
  - 4.3 Members will be informed of the proposed schedule for site visits. The letter advising of arrangements for site visits does not however constitute a formal Notice of Meeting and whilst the first visit on any one day will not commence until the stated time, subsequent timings can only be approximate. Members wishing to ensure that they are present at any one visit are therefore advised to join the committee at the start of the day's visits.
  - 4.4 There is to be no discussion on the merits of the application. The council is particularly concerned:
    - that the inspection is conducted in an orderly manner ;
    - that there are no distractions preventing a proper inspection ;
    - that the inspection is conducted at arm's length from applicants and objectors, thus ensuring fairness and impartiality.
  - 4.5 No member of the public (including any applicant) shall be allowed to address members at the site visit. Consideration of the planning merits of the case will take place at the subsequent meeting of the committee which will be held at a different venue from the site to be inspected. The right of the public to speak at meetings of the committee is set out in Procedure Rule D1.35 (f).